

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13921 of the Electrical Workers Benefit Association, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 4101.3) to use the subject premises as a parking lot for all day commuter parking in an SP-2 District at premises 1310 - 13th Street, N.W., (Square 243, Lot 822).

Application No. 13922 of the Electrical Workers Benefit Association, pursuant to Sub-section 8207.2 and Paragraph 8207.11 of the Zoning Regulations, for a special exception under Paragraph 4101.41 to continue the use of the subject premises as a parking lot and for a variance from the prohibition against all day commuter parking (Sub-paragraph 4101.413) in an SP-2 District at premises 1303-1311 N Street, N.W., (Square 243, Lot 826).

HEARING DATE: February 23, 1983

DECISION DATE: March 2, 1983

FINDINGS OF FACT:

1. The subject applications are consolidated by the Board for the purposes of this order since both lots are owned by the Electrical Workers Benefit Association, they share a common boundary, many of the facts regarding both cases are the same, and both were heard and disposed of at the same time.

2. The subject properties are located on the north-west corner of the intersection of 13th and N Streets, N.W. and are known as premises 1303-1311 N Street and 1310 13th Street, N.W. The subject properties are zoned SP-2.

3. Both of the subject properties are basically rectangular in shape with no topographic irregularities. Lot 826 is 14,362 square feet in area. Lot 822 is 2,270 square feet in area.

4. Both lots were first approved for parking lot use pursuant to BZA Order No. 6571-75, dated December 18, 1961. The Board approved the continuation of parking use on both lots in BZA Order No. 7049-50, dated December 17, 1962. BZA Order Nos. 7553, 9883, 11615, 12227 and 13192, subsequently approved the continuation of the parking use, but all excluded Lot 822. The certificates of occupancy issued for the parking lot did not include Lot 822, although that lot

was continuously operated as a parking lot in conjunction with Lot 826.

5. Lot 826 has a capacity of sixty-five attendant parked cars and an attendant's shelter. Lot 822 has a capacity for ten attendant-parked cars when operated in conjunction with Lot 826. Lot 822 alone could not provide ten parking spaces because the lot is too small to provide an access aisle. Both lots are paved and in compliance with the provisions of Article 74 and the conditions imposed by the Board's previous orders.

6. Uses surrounding the subject properties include the eight-story Eddystone Apartment House to the west, an Amoco Service Station and liquor store to the east across 13th Street, the former Hysong Funeral Parlor which is vacant and for rent as SP office space to the south, the Logan Park building, a condominium apartment house with ground floor office space to the southeast across 13th Street, and row dwellings to the north.

7. The subject parking lot was formerly owned by the District of Columbia Government. The property was sold at public auction to the Electrical Workers' Benefit Association. The Association intends to develop the property, but given the present state of the market, is unable to proceed at this time. These applications propose to continue the parking lots as an interim use pending development.

8. The applicant intends to operate both lots jointly as one parking facility with a combined capacity of seventy-five parking spaces.

9. The hours of operation will be from 7:00 A.M. to 7:00 P.M., weekdays. There will be an attendant present at all times the lot is in operation. Maintenance will be on a daily basis and the lot will be policed periodically during the day by the attendant.

10. The lot will be operated on an in-and-out commercial basis with some monthly lease contracts for use of both commuters and area residents. The lot will be available for use of area residents as storage space for their cars. The applicant is also working out an arrangement with a nearby church to permit the use of the lot during Sunday services. In this way the lot serves residential and community service uses.

11. The lot will be secured during all hours it is not in operation.

12. At public auction, the property was advertised for sale as a parking lot and was represented as a lot available

for use as commuter parking in accordance with previous Board approvals. The applicant relied upon the representations made by the District of Columbia Government in purchasing the property.

13. The Zoning Regulations prohibit the provision of all-day commuter parking in parking lots in SP District. The most recent approval of the parking lot, BZA Order No. 13192, granted a variance from the provisions of Sub-paragraph 4101.413 to allow all-day commuter parking on Lot 826.

14. The area surrounding the subject site contains very few commercial uses to generate a need for short-term parking. Commercial operation of the lots is expected to generate only enough income to cover the cost of property taxes on the parcel.

15. The applicant proposes to develop the lots jointly in the future. The development now of Lot 822 for a building and use permitted in the SP District, only to demolish that building to allow for the joint development of both lots in the future, would be costly and unreasonable for the applicant. The alternative would be to allow the lot to remain vacant and unproductive during the interim period.

16. No new development is occurring in the immediate area. The Logan Park building, built as a condominium, has resorted to the rental of units and only thirty percent of the building had been leased at the time of the public hearing. The Hysong Funeral Home building, an historic mansion, has been on the market for lease as SP office space for over two years and is still vacant. In light of the economy and use history of the area, development of Lot 822 for a permitted SP use is not practical at the present time.

17. The applicant testified that because of its nature and operation, the lot will not adversely affect the present character and future development of the neighborhood. The lot will be maintained daily, supervised by an attendant at all times the lot is in operation, and periodically policed during the day. In response to neighborhood concerns, the lot will be secured during evening and weekend hours. The lot will be available for short-term parking to serve the limited retail uses in the neighborhood, and will also provide commuter parking as well as storage space for the cars of neighborhood residents. The Board so finds.

18. The variance relief requested is for a limited period of time, until March 21, 1984. The undue hardship established in the present case is of temporary duration as it is predicated upon the economy and use history of the area, the lack of present development potential, and the applicant's future plans for development of the properties.

19. The applicant's traffic and transportation consultant testified that the use of the lots for parking for up to seventy-five cars will not result in an appreciable increase in traffic or noise above that generated by the existing traffic on 13th Street, which is a major roadway for commuters. In addition, the consultant testified that there is a substantial need for commuter parking at this site due to the recent closing of several parking lots in the area which reduced the number of available parking spaces by approximately 305 spaces. The Board so finds.

20. There were approximately forty-three form letters in support submitted to the record of both cases.

21. Two letters of opposition were submitted by neighborhood residents which expressed concern with the amount of trash on the lots and the conduct of illegal activities such as prostitution and narcotics dealing when the lot is vacated in the evenings.

22. The applicant testified and photographs contained in the record reflect, that the lot has been cleaned and barricaded. Complaints of illegal activities are outside the jurisdiction of the Board, and should be addressed to the Metropolitan Police Department and other appropriate authorities.

23. The Logan Circle Community Association, by letter dated February 22, 1983, and testimony presented at the public hearing, recommended that both applications be conditionally approved because of the history of the site's use as a parking lot, because of the shortage of parking in the immediate area, because of the applicant's response to the concerns of the residents with regard to maintenance and security and because of the applicant's agreement to review plans for the future development of the property with the Association. The conditions recommended by the Association were that the use of the site for parking purposes not exceed one year, the lot will be attended during the day and secured at night, the applicant will assume personal responsibility for the operation of the lot, and the applicant will attempt to negotiate an arrangement with Mt. Olivet Lutheran Church to allow use of the lot by the Church on Sundays.

24. The Office of Planning, by memorandum received on February 10, 1983, recommended that the applications be conditionally approved. In regard to Lot 822, the Office of Planning noted the softness of the real estate market, the poor marketing results of recent projects in the immediate area, and the lot's history of parking use in conjunction with the use of Lot 826. The Office of Planning believed that future development will combine the two lots and that denial of parking use on Lot 822 will create a lot which

will lie vacant of use and which will not generate any tax income. The OP believed that the use history and physical association between the lots creates an unusual situation which is inherent in the property itself. The Office of Planning was further of the opinion that the applications can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations. The Office of Planning recommended that approval be conditioned as follows:

- a. Approval shall be for a period of two years.
- b. The owner shall inform the Board of the specific development plans for both lots including a projected construction date.
- c. The applicant shall comply with the provisions of Article 74.
- d. The lot shall be secured at night and on weekends, except as approved by the BZA.

The Board concurs with the general findings and recommendations of approval by the Office of Planning.

25. Advisory Neighborhood Commission 2C made no recommendation on the subject application.

CONCLUSIONS OF LAW AND OPINION:

Based on the Findings of Fact and evidence of Record, the Board concludes that the applicant is seeking a special exception and variances. In order to be granted the requested exception, the applicant must demonstrate that it has complied with the requirements of Paragraph 4101.41 and Sub-section 8207.2 of the Zoning Regulations. The Board concludes that the applicant has so complied. Specifically, the facility, which was in existence on October 5, 1978, is so located and designed, as conditioned herein, that it is not likely to become objectionable to adjoining and nearby property owners because of noise, traffic or other objectionable conditions, nor will the present character and future development of the neighborhood be adversely affected by the use. Additionally, the Board concludes that at present, the lot in part serves residential uses and provides short-term parking for uses in the vicinity.

As to the variance to permit the lawful establishment and continuance of parking use of Lot 822 and for the variance to permit all-day commuter parking on both lots, the Board concludes that the applicant is seeking use variances which requires a showing of undue hardship upon the owner that arises from the property itself. The Board

concludes that Lot 822 is subject to extraordinary and exceptional conditions in light of its small size, the economy and use history of the area surrounding the subject property which have contributed to the lack of development potential in the area, reliance on the action of the District of Columbia Government, and the fact the lot is contiguous to Lot 826, under common ownership, and intended to be developed jointly. The Board also concludes that the strict application of the Zoning Regulations would result in undue hardship upon the owner in that the property could be put to no reasonable, economically viable use. The need for a variance from Sub-paragraph 4101.413 in order to operate a commuter parking facility in this area has been demonstrated because of the lack of adequate demand for short-term parking facilities in the area and the present inability of the owner to develop the site.

The Board concludes that the requested variances can be granted, as hereinafter conditioned without substantially impairing the intent, purpose or integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore ORDERED that both applications are GRANTED subject to the following CONDITIONS:


- A. Approval shall be for a period of TWO YEARS from the date of expiration of the previous order, namely from March 21, 1982.
- B. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- C. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- D. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- E. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
- F. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

- G. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 4-0 (Carrie Thornhill, Charles R. Norris and William F. McIntosh to grant, Walter B. Lewis to grant by proxy; Douglas J. Patton not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: JUN 14 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

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